IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 26273 OF 2005

Dated : March 24, 2006

Between:

Ch. Muthaiah

Petitioner

AND

The Managing Director,

A.P. Power Generation Corporation Limited,

Vidyutsoudha, Somajiguda,

Hyderabad and others.

Respondents

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 26273 OF 2005

ORAL ORDER:

Seeking to declare the action of 2nd and 3rd respondents in rejecting to rectify the pay scale anomaly on par with his juniors vide Memo No. CGM(A)/DS(A)/AS(P-T)/PO.D3/422/2005 dated 17.8.2005; Memo No. CE/O&M/KTPS/SAO/AO.II/D.No.979/04 dated 19.3.2004 and Memo No. CE/O&M/KTPS/SAO/PRAIA/A2/ D.NO.1108/04 dated 30.4.2004 and also the action of the first respondent in not considering and disposing of the petitioner's Appeal/Representation dated 30.92004 and 1.10.2005 as illegal and arbitrary and violative of Article 14, 16 and 21 of the Constitution of India and to consequently rectify the pay anomaly on par with his Junior by granting SPP-II Scales from February, 1996, the petitioner filed this writ petition.

The petitioner joined as LDC at KTPS Complex in the erstwhile A.P.S.E.B. on 11.2.1970 and his probation was declared in the said category with effect from 5.4.1974 and was placed at seniority No.4 in the gradation list. Subsequently, he was promoted as Senior Assistant on 4.11.1993 and his probation was also declared with effect from 8.11.1994 and placed at Seniority No. 10 in the Seniority List. Similarly, his junior Mr. Md. Ali Baig, joined as LDC on 11.2.1970 and his probation was declared in the said post with effect from 7.4.1972 and he stands at Seniority No.6. He was also promoted as Senior Assistant on 2.12.1993 and his probation was declared with effect from 11.12.1994 and was placed at Seniority No.12 in the Gradation List. The next promotion of the petitioner is Accountant, re-designated as JAO, and though the petitioner was fully qualified in 1996 itself, he was not promoted, in view of pendency of WP No. 11891 of 1997 and batch. Thereafter, by orders dated 10.10.2002, the petitioner was promoted and his junior was also promoted by order dated 9.1.2004. Both of them were admitted to the time scale of Rs.8755-360-9115-430-11625-500-13765-575-14340, but the pay of Mr. Md. Ali Baig, though junior to the petitioner, is fixed at an higher

scale than the petitioner, which according to the petitioner is the result of improper implementation of the Special Promotion Post under Automatic Advancement Scheme. Therefore, the petitioner made several representations, which were rejected by the respondents. Under the above circumstances, the petitioner opted for voluntary retirement and retired from service on 30.4.2004. It is his further case, that the Appeal dated 30.9.2004 preferred by the petitioner was also not disposed of by the first respondent and as such the petitioner preferred WP No. 12232 of 2005, which was disposed of by this court on 10.6.2005, directing the first respondent to dispose of the appeal and pass appropriate orders expeditiously preferably within eight weeks from the date of receipt of a copy of that order. The third respondents, in compliance of the said direction, rejected the petitioner's case for rectification of pay anomaly, though the first respondent has not passed any order. Therefore, the petitioner has come up with the present writ petition.

Evidently, in the earlier round of litigation, the Chief Engineer – second respondent has rejected the case of the petitioner for rectification of pay scale anomaly and this court by order dated 17.6.2005 directed the first respondent to dispose of the Appeal dated 30.9.2004 within a period of eight weeks, but instead of first respondent passing any order, the third respondent by order dated 17.8.2005 has rejected the petitioners case.

Though the writ petition is admitted, no counter is filed by any of the respondents. The learned Standing counsel for the respondents fairly concedes that apparently there is a mistake on the part of the respondents in the third respondent passing an order instead of first respondent. Consequently, the order dated 17.8.2005 is liable to be set aside and is accordingly set aside and the first respondent herein viz., the Managing Director, A.P. Power Generation Corporation Limited, Vidyutsoudha, Somajiguda, Hyderabad, is once again directed to pass a speaking order, disposing of the Appeal / Representation dated 30.9.2004 and 1.10.2005, submitted by the petitioner, within a period of eight weeks from the date of receipt of a

copy of this order.

With this direction, the writ petition stands disposed of. No order as to costs.

N.V.RAMANA, J.

March 24, 2006

MAS.